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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,759	04/24/2006	Tomas Kreutz	150-313	6869
7590 Arator Ip Law Group Steven S Payne 1101 17th Street N W Suite 1005 Washington, DC 20036	09/11/2007		EXAMINER ESTRADA, ANGEL R	
			ART UNIT 2831	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/560,759	KREUTZ, TOMAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Angel R. Estrada	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>9/25/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed September 25, 2006 has been considered by the Examiner.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 19, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreutz (US 2005/0011663).

Regarding claim 11, Kreutz discloses a module (15) to be received in a frame (13) for cable entries and/or pipe penetrations, the module (15) comprising parts adaptable to receive flat cables and/or pipes having an elongated cross section (see figure 3).

Regarding claim 17, Kreutz discloses the module (15), wherein the module is made of an elastic material (paragraph 0031).

Regarding claim 19, Kreutz discloses a frame (13) for cable entries, pipe penetrations or the like (see figure 3), wherein the frame receives one or more modules (15).

Regarding claim 20, Kreutz discloses the frame (13), wherein the frame (13) has a wedge (14) or other tensioning means (see figure 3).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kreutz (US 2005/0011663).

Regarding claim 12, Kreutz discloses the claimed invention except for the module (15) being formed of two end parts and two middle parts. It would have been an obvious matter of design choice to form the module with two end parts and two middle parts, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 13, Kreutz discloses the module (see figure 3), wherein each end part has a number of sheets (16), giving a rounded form to receive an end of the flat cable and/or the flat pipe, and which sheets may be peeled off to adapt the end part to the received flat cable or the flat pipe (paragraph 0030).

Regarding claim 14, Kreutz discloses the module (see figure 3), wherein the end parts are identical to parts forming a module for cables and/or pipes having a circular cross section (see figure 3)

Regarding claim 15, the modified Kreutz discloses the module (see figure 3), wherein each middle part is formed of a base plate (17) and a number of sheets (paragraph 0030) that may be peeled off to adapt the middle part to the flat cable or the flat pipe to be received (see figure 3).

Note: it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Regarding claim 16, the modified Kreutz discloses the module (see figure 3), wherein the base plate (17) is to be directed away from the flat cable or the flat pipe at mounting in a frame (see figure 3).

Regarding claim 18, the modified Kreutz discloses the module (see figure 3), wherein a blind plate (17) can be arranged encircled by the end and middle parts.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Klein et al (US 5,493,068), Beele (US 5,108,060), Twist et al (US 4,919,372), Brattberg (US 3,489,440), Bloomqvist et al (US 4,291,195) and Weiss et al (US 6,765,147) disclose a module and frame for cable entries.
  
6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) OR 571-272-1000.

August 31, 2007



Angel R. Estrada  
Primary Examiner  
Art Unit: 2831